

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101

SUBJECT: Ordinance 1st Reading/Quasi-judicial
ZB 4-2-02 Pulice Land Surveyors Inc./Laurence Mauer,
5800 Davie Road/Generally located 260 feet from the east side of Davie
Road, approximately 350 feet north of Stirling Road

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 4-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-2, LOW DENSITY DWELLING DISTRICT TO RO, RESIDENTIAL/OFFICE DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The petitioner has requested to rezone the 26,730 square foot (0.6136 acres) subject site from: R-2, Low Density Dwelling District; to: RO, Residential/Office District utilizing the Broward County 5 percent residential to commercial flexibility rule.

This request is to allow the 26,730 square foot (0.6136 acres) subject site to be developed with office use. The property owner owns the 59,067 square feet (1.356 acres) to the west, for a total parcel size of 85,818 square feet (1.9701 acres). The owner wishes to plat and develop the site with approximately 18,000 square feet of office use. The property to the north is vacant and zoned R-2, Low Density Dwelling District, the south is zoned B-2, Community Business District and occupied by office use, the west is vacant land across Davie Road, and the parcel to the east has been dedicated by plat as a water retention and recreation area. The request will allocate 0.6136 of the 77.19 Commercial Flexibility Acres available in Flex Zone 102.

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 12, 2002, meeting of the Planning and Zoning Board, Ms. Lee made a motion, seconded by Ms. Turin to approve (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff recommends that the subject report, on the reclassification of property, be reviewed and discussed by Town Council so that a final decision may be rendered.

Attachment(s): Ordinance, Justification, Survey, Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 4-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-2, LOW DENSITY DWELLING DISTRICT TO RO, RESIDENTIAL/OFFICE DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from R-2, Low Density Dwelling District to RO, Residential/Office District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing thereunder was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from R-2, Low Density Dwelling District to RO, Residential/Office District:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as R-2, Low Density Dwelling District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2002.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2002.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2002.

Application #: ZB 4-2-02
Exhibit "A"

Revisions:
Original Report Date: 8/2/2002

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

APPLICANT INFORMATION

Owner:

Name: Laurence A. Mauer
Address: 1424 South Andrews Avenue, Suite 102
City: Fort Lauderdale, FL 33316
Phone: (954)463-3302

Agent:

Name: Pulice Land Surveyors Inc.
Address: 5381 Nob Hill Road
City: Sunrise, FL 33351
Phone: (954)572-1777

BACKGROUND INFORMATION

Date of Notification: June 5, 2002 **Number of Notifications:** 27

Application History: No deferrals have been requested.

Application Request: Rezone the 26,730 square foot (0.6136 acres) subject site **FROM:** R-2, Low Density Dwelling District; **TO:** RO, Residential/Office District utilizing the Broward County 5 percent residential to commercial flexibility rule.

Address/Location: 5800 Davie Road/Generally located 260 feet from the east side of Davie Road, approximately 350 feet north of Stirling Road.

Future Land Use Plan Designation: Special Classification Residential (2 DU/AC)

Zoning: R-2, Low Density Dwelling District

Existing Use: Vacant

Proposed Use: Residential/Office

Parcel Size: 0.6136 acres (26,730 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Vacant	Special Classification Residential (2 DU/AC)
South:	Vacant	Special Classification Residential (2 DU/AC)
East:	Water retention area	Special Classification Residential (2 DU/AC)
West:	Vacant	Residential/Office

Surrounding Zoning:

North: R-2, Low Density Dwelling District
South: A-1, Agricultural District
East: R-2, Low Density Dwelling District
West: RO, Residential/Office District

ZONING HISTORY

Related Zoning History: The Residential/Office zoning district was adopted by Ordinance 83-20 on March 2, 1983.

The adjacent parcel to east, within the “DaSilva Plat” Plat Book 150, Page 32, is dedicated to water management for the subdivision, and for the private recreational purposes of lots 6, 7 and 8.

Previous Request on same property: The rezoning, ZB 1-1-85 Town of Davie, was approved on January 2, 1985.

APPLICATION DETAILS

The petitioner has requested to rezone the 26,730 square foot (0.6136 acres) subject site from: R-2, Low Density Dwelling District; to: RO, Residential/Office District utilizing the Broward County 5 percent residential to commercial flexibility rule.

Applicable Codes and Ordinances

Section 12-307 of the Land Development Code, review for rezonings.

Section 12-81A of the Land Development Code, Conventional Single-Family Development Standards, R-2, Low Density Dwelling District, requires minimum: lot area of 17,500 square feet, frontage of 100 feet, front setback of 30 feet, side setbacks of 15 feet, rear setback of 25 feet, maximum height of 35 feet, and minimum dwelling unit floor area of 1,000 square feet.

Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, RO, Residential/Office District, requires minimum: lot area of 17,500 square feet, frontage of 100 feet, front setback of 25 feet, side and rear setbacks of 20 feet, and maximum building height of 25 feet.

Section 12-24(J)(1): The RO District is intended to implement the residential/office classification of the Town of Davie Comprehensive Plan by providing a buffer of professional offices and mixed residential and office development to surrounding residential areas. The intent of this district is to maintain the residential character of the neighborhood while permitting the development of professional offices.

The uses permitted by right within the RO District as stated in Section 12-32(B) are:

Contractor, office only

Home Occupation

Office
Real Estate Office
Studios (Art, Music)

Plant Nursery
Sales Office

The uses permitted conditionally within the RO District as stated in Section 12-32(B) are:

Agriculture
Communication Apparatus

Agriculture, Commercial
Residential Uses

Section 12-34(V) Residential Office: Professional and business offices in the RO District shall be constructed and maintained to resemble a residential structure. Offices may not consume more than fifty (50) percent of a mixed use structure.

Section 12-34(W)(1) Residential Use of Nonresidentially Zoned Property: Residential Development in the RO District is limited to a maximum density as permitted by the underlying residential designation on the Future Land Use Plan Map, in no event to exceed five (5) dwelling units per acre.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 9. This Planning Area is south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102. Broward County views the Residential/Office land use category as Commercial.

Article 2.5 (A)(2) of the Administrative Rules Document: Increase and Decrease of Commercial and Residential Acreage. The local land use plan may permit up to five percent (5%) of the area designated for residential use on the Broward County Land Use Plan within a flexibility zone to be used for neighborhood office and/or retail sales of merchandise or services, subject to compliance with Policy 13.01.10 of the Broward County Land Use Plan. No such contiguous area may exceed ten (10) acres in size. For the purpose of this provision, contiguous is defined as: attached; located with 500 feet; or separated only by streets and highways, canals and rivers, or easements.

This five percent (5%) residential-to-commercial flexibility rule may be applied by the local government through (re)zoning or other official action, subject to compliance with Policy 13.01.10 of the Broward County Land Use Plan, and does not require an amendment to the local land use plan map if the provision is certified by the Planning Council within the residential permitted uses section of the local land use plan.

Policy 13.01.10: Local government utilization of the Broward County Land Use Plan "Flexibility Rules," as per policies 1.01.03, 1.01.04, 1.02.01, 1.02.02, 2.04.04, 2.04.05, 3.01.06 and 3.02.02, shall be subject to a determination by the Broward County Commission

that such allocation is compatible with adjacent land uses, and that impacts on public school facilities have been adequately considered. Allocations of “flexibility” for “affordable housing” or “special residential facilities” or “urban infill, urban redevelopment and downtown revitalization areas,” as defined with the Broward County Land Use Plan shall be exempt from this Policy.

Applicable Goals, Objectives & Policies:

Objective 17: Land Use Compatibility and Community Appearance: Policy 17-2:

No property within the Town shall be rezoned to a zoning district that is not in compliance with the Davie Future Land Use Plan.

Future Land Use Plan: Plan Implementation:

The Residential/Office category accommodates residential and limited non-residential uses for application in areas where a transition is appropriate.

The permitted uses of the Residential/Office category include the following:

1. Residential dwelling units at a maximum density of five (5) units per acre.
2. Home occupations and accessory uses.
3. Professional and business offices constructed and maintained to resemble a residential structure.
4. Community Facilities
5. Agriculture
6. Public and private utilities, provided such use does not preclude or adversely affect the future use of the surrounding area for residential/office purposes. Permitted utilities shall not include power plant substations, and transmission facilities.

Staff Analysis

This request is to allow the 26,730 square foot (0.6136 acres) subject site to be developed with office use. The property owner owns the 59,067 square feet (1.356 acres) to the west, for a total parcel size of 85,818 square feet (1.9701 acres). The owner wishes to plat and develop the site with approximately 18,000 square feet of office use. The property to the north is vacant and zoned R-2, Low Density Dwelling District, the south is zoned B-2, Community Business District and occupied by office use, the west is vacant land across Davie Road, and the parcel to the east has been dedicated by plat as a water retention and recreation area. The request will allocate 0.6136 of the 77.19 Commercial Flexibility Acres available in Flex Zone 102.

Land Use and Zoning

The Comprehensive Plan and Land Development Code allows properties designated as Residential/Office to be developed with both residential and office uses.

Compatibility

The Land Development Code requires that structures in the Residential/Office district be constructed and maintained to resemble a residential structure to ensure compatibility. This

district is intended to provide transition between commercial and residential uses.

Findings of Fact

Rezoning:

Section 12-307(A)(1):

The following findings of facts apply to the rezoning request.

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

The comprehensive plan allows commercial acreage to be increased in accordance with Broward County rules.

- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The requested zoning district is intended to provide transition between intensities, and requires that the design of the structures be compatible with the adjacent properties.

- (c) Existing zoning district boundaries are not logically drawn in relation to existing conditions on the property proposed for change;

The existing R-2, Low Density Dwelling District boundaries are illogically drawn. The parcel is 81' wide, which can only accommodate a dwelling that is a maximum 26'in width in order to meet the district's setbacks.

- (d) The proposed change will not adversely affect living conditions in the neighborhood;

Development of residential/office use on this parcel will not have adverse impacts on the neighborhood. The parcel to the west is the same use, the east is buffered by a parcel dedicated to water retention and recreation, the 81' that adjoins the undeveloped R-2, Low Density Dwelling District to the north and the A-1, Agricultural District to the south will be separated by the required landscape buffer.

- (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

The traffic generated by residential/office use is not excessively greater than what would result from residential development of the site.

(f) The proposed change will not adversely affect other property values;

Surrounding property values will not be adversely impacted.

(g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

The change will not deter development of the land to the north. The request will allow for owner's parcel to the west to be developed at its fullest potential with residential/office use. The parcel adjoining on the east has been dedicated to water retention and recreation, and serves as an additional buffer between the properties.

(h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

This request is a privilege that can be afforded to any owner.

(i) There are substantial reasons why the property cannot be used in accord with existing zoning.

The subject site has no access to right-of-way. The dimensions of the parcel make development of the site for single family homes under this zoning district not feasible. The Land Development's Code standards would allow for the development of one (1) dwelling unit no greater than 26' in width.

(j) The proposed zoning designation may be the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

Development of the site will ultimately enhance the Town's tax base.

Staff Recommendation

Staff recommends that the subject report, on the reclassification of property, be reviewed and discussed by the Planning and Zoning Board and Town Council so that a recommendation and final decision may be rendered.

Planning & Zoning Board Recommendation

At the June 12, 2002, meeting of the Planning and Zoning Board, Ms. Lee made a motion, seconded by Ms. Turin to approve (Motion carried 5-0).

Exhibits

1. Justification

2. Survey
3. Land Use Map
4. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

REASON FOR REQUEST

My client owns a parcel of land consisting of 1.9701 acres located on the east side of Davie Road and approximately 666 feet north of the centerline of Stirling Road, in the Town of Davie. The west 179 feet or 1.356 acres is zoned Residential/Office. The remainder of the property being the east 81 feet or .6131 acres is zoned Residential.

My client is desirous of developing this site to accommodate 18,000 square feet of office use. In order to do this effectively we are requesting that the east 81 feet or .6131 acres of the property be rezoned to Residential/Office use in order to be consistent with the zoning of the main body of the property.

CRITERIA FOR REVIEWING REZONING REQUESTS

The Planning and Zoning Board shall hold its public hearing and make a recommendation upon the application to the Town Council based upon its consideration of, where applicable, whether or not:

1. The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

The proposed zoning change is in harmony with the adopted comprehensive plan. The proposed zoning of Residential/Office is consistent with the adjacent zoning to the West.

2. The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The proposed change would not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

The westerly 1.36 acres of this property is zoned Residential/Office as is the adjacent property to the west and northwest. The rezoning of the east 81 feet of this property would be consistent with the surrounding zoning.

3. Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

The existing zoning district (R-2) is illogically drawn in relation to existing conditions on the property proposed for change. The property to the west and north are zoned Residential/Office. The property to the east is an existing lake and buffered by a 20 foot Lake Maintenance. The lake is dedicated to the water management of the adjacent subdivision to the east and will never be developed.

As it is, this property has been fragmented and loses full development potential leaving it impractical in size and unmarketable. Rezoning this small strip of land to Residential/Office would make it consistent with the west 1.36 acres of this Residential/Office zoned tract and compatible with the surrounding zoning.

4. The proposed change will adversely affect living conditions in the neighborhood;

This is a small strip that once rezoned, will be consistent with the adjacent zoning which will cause no adverse effects to the neighborhood and be perfectly compatible.

5. The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise effect public safety;

The proposed change will not create or excessively increase automobile traffic congestion or otherwise effect public safety.

6. The proposed change will adversely affect other property values;

The proposed change will not adversely affect other property values. It is consistent with the surrounding zoning and character of the area.

7. The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;

The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations. It will be consistent with adjacent Residential/Office zoning districts.

8. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

The rezoning of this property is logical and practical. It does not constitute a grant of special privilege to an individual as contrasted with the welfare of the general public.

9. There are substantial reasons why the property cannot be used in accord with existing zoning;

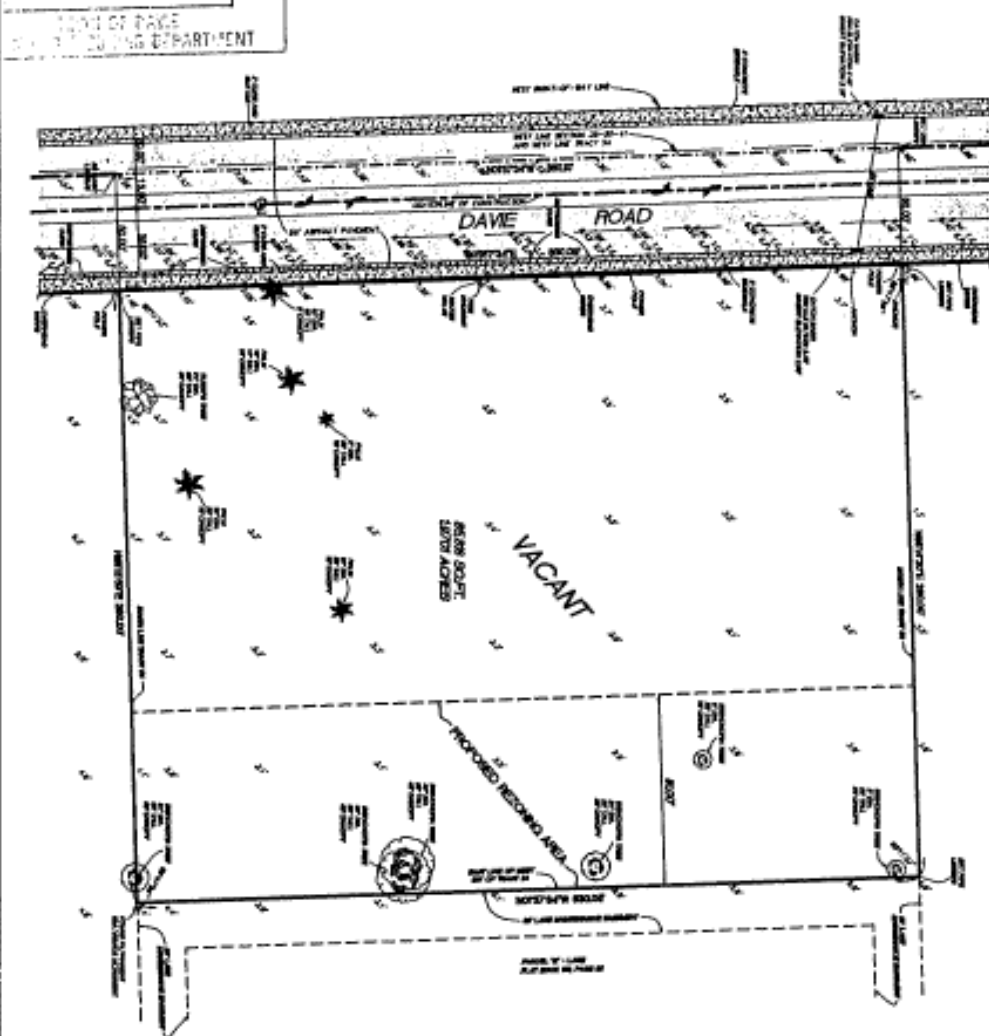
This is a 1.9701 parcel of land that has been divided by illogically drawn zoning boundaries creating a "bowling alley lot" Zoned R-2 with no direct access to a public roadway.

Sandwiched between the main portion of the parcel to the west zoned Residential/Office, and a lake, this small parcel would allow only 1 dwelling unit. In order to meet code setbacks the structure could be no more than 26 feet in width.

It is highly unlikely that this illogically zoned lot would ever be marketable causing a financial hardship for the developer, while keeping him from being able to take full advantage of the development capabilities of his property.

Therefore we are requesting that the east .6131 acres of this property be rezoned to Residential/Office in order to provide the parcel consistent zoning that is perfectly compatible with the surrounding uses.

PAGE TWO
FBI BOSTON



LIFE-SPAN ESTIMATION FROM

[illegible]

NOTES

12. **RESEARCH AND TESTS:** U.S. & U.K. conducted safety tests on the new engine. The engine was tested at 100% power for 100 hours. The engine was tested at 100% power for 100 hours. The engine was tested at 100% power for 100 hours.

CERTIFICATE

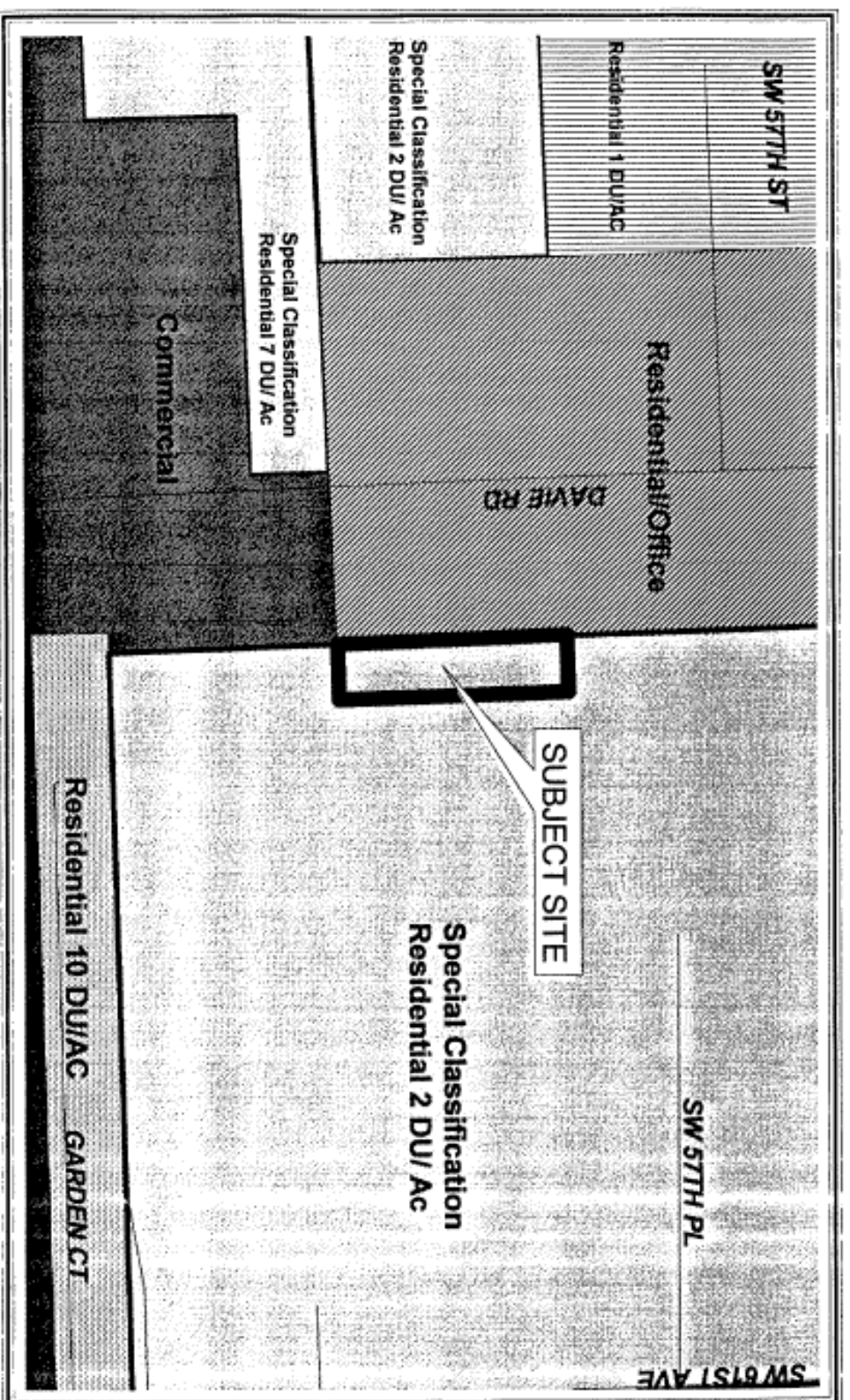
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1. *Signature*
 2. *Print Name*
 3. *Print Title*

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BIRMINGHAM AND TOPICALIZED SURVEY

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PETITION NUMBER: ZB 4-2-02

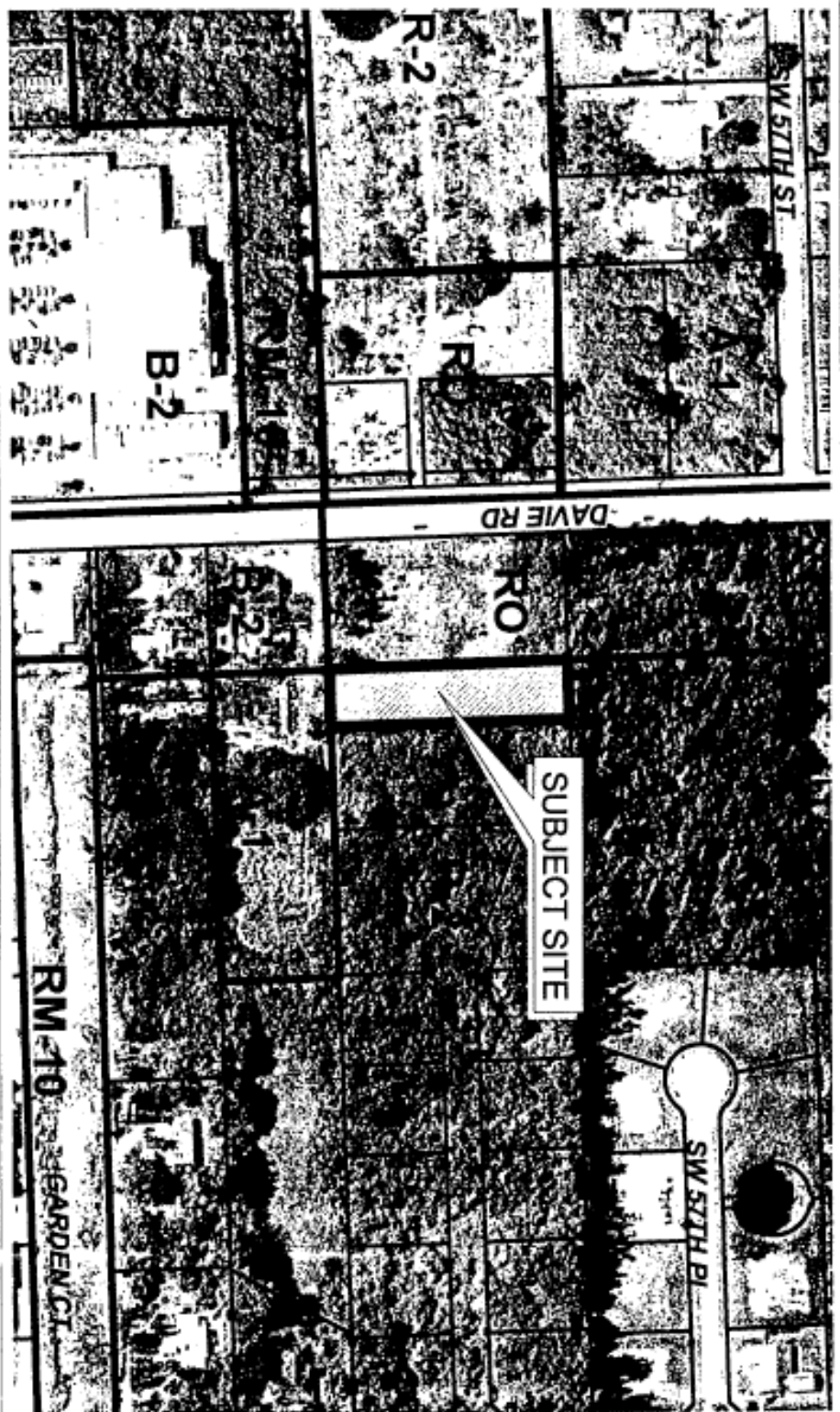
LAND USE MAP

Aerial Date Flown: January, 2001

Scale: 1"=200'

Planning & Zoning Division - GIS

Prepared 5/22/02



PETITION NUMBER: ZB 4-2-02
ZONING AND AERIAL MAP
Aerial Date Flown: January, 2001
Scale: 1"=200'
Planning & Zoning Division - GIS
Prepared 5/22/02